



4310-GJ

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES002330.L17110000.PC0000 14X]

Proposed Supplementary Rules for Public Lands in Palm Beach County, FL

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules for all BLM-administered lands within the Jupiter Inlet Lighthouse Outstanding Natural Area (JILONA), Palm Beach County, Florida. These rules would regulate public use and recreation at the site and aid in enforcement of the decisions in the JILONA Comprehensive Management Plan completed September 15, 2010.

DATES: Interested parties may submit written comments regarding the proposed supplementary rules until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments related to the JILONA supplementary rules by either of the following methods:

- Email: pdewitt@blm.gov
- Mail: Peter De Witt, JILONA Manager, 120 U.S. 1 North, Suite 100, Tequesta, FL 33469

FOR FURTHER INFORMATION CONTACT: Peter De Witt, JILONA Manager, telephone 561-746-7680; address 120 U.S. 1 North, Suite 100, Tequesta, FL 33469; email pdewitt@blm.gov. Persons who use a telecommunications device for the deaf

(TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact Mr. De Witt during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question for Mr. De Witt. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion of Proposed Supplementary Rules
- IV. Procedural Matters

I. Public Comment Procedures

You may mail or email comments to Peter De Witt at the addresses listed above (see **ADDRESSES**). Written comments on the proposed supplementary rules should be specific and confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider, or include in the administrative record for the final supplementary rules, comments delivered to an address other than that listed above (see **ADDRESSES**) or comments that the BLM receives after the close of the comment period (see **DATES**), unless they are postmarked or electronically dated on or before the deadline.

Comments, including names, street addresses, and other contact information for respondents, may be available for public review at the location listed in **ADDRESSES**

during regular business hours (8 a.m. to 4 p.m., Monday through Friday, except Federal holidays).

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

The Jupiter Inlet Lighthouse Outstanding Natural Area Comprehensive Management Plan, published in 2010, covers approximately 120 acres of lands, a portion of which (approximately 86 acres) are public lands administered by the BLM Southeastern States Field Office. The plan identifies the implementation of an array of management actions designed to protect, conserve, and enhance natural and cultural resource values -- including historic and archaeological resource values -- while providing for appropriate recreational opportunities in the area.

The Comprehensive Management Plan public process was conducted over a 2-year period and used a variety of methods of public engagement strategies, from press releases and mailings, to multiple public meetings in the communities surrounding JILONA. The public process included public information, scoping, and formal comments on the proposed plan.

The supplementary rules resulting from the management decisions within the Comprehensive Management Plan will help the BLM achieve management objectives and implement the Plan's decisions. Furthermore, the rules will allow the BLM to

increase law enforcement efforts that will help mitigate damage to natural resources and provide for public health and safe public recreation.

The rules would apply to approximately 86 acres of public lands within the JILONA, Palm Beach County, Florida. The legal description of the affected public lands is Tallahassee Meridian T40S, R43E, Section 31, Lots 15, 17, and 19.

III. Discussion of Proposed Supplementary Rules

These supplementary rules were identified in and are consistent with the decision record for the JILONA Comprehensive Management Plan, which was approved on September 15, 2010. The Comprehensive Management Plan includes specific management actions that restrict certain activities and define allowable uses, and provides for the adoption of Palm Beach County's Natural Areas Ordinance No 94-13 as supplementary rules for Lots 15, 17, and 19 to address immediate concerns with public access and use in these areas.

The proposed supplementary rules are needed to govern visitation, use, and public access of the natural areas within the JILONA for the protection of natural, historic, and cultural resources, and to address public safety concerns. In addition, they would assist the BLM's law enforcement at the site, and enhance consistency with the Palm Beach County Natural Areas Ordinance, which is currently enforced throughout the natural area portions of JILONA by Palm Beach County and the municipal jurisdiction of the Town of Jupiter and Village of Tequesta.

The proposed rules prohibiting certain activities affecting plants and animals (Rules 1(a) through (c)) would protect and preserve those organisms. The proposed prohibition against excavation and other soil-disturbing activities (Rule 1(d)) would

protect the structure of habitats and reduce the risk of disturbing buried cultural artifacts. Prohibitions against starting fires and disposing of flammable materials (Rules 2(a) and (b)) are proposed in order to protect historical and archaeological resources from damage, and to reduce the risk of unauthorized fires. Proposed Rules 3(a) and 3(b) would restrict the use of watercraft to protect natural and cultural resources in various locations within the JILONA and would prevent damage to vegetation, wildlife, and shoreline. The prohibitions listed in Rule 4(a) through (i) would assist in the protection of public safety and would enhance recreation for the general public.

Rules 5(a) through (d) would list the following activities requiring prior authorization:

- (a) Camping;
- (b) Equestrian activities;
- (c) Collection of plant and animal specimens or use of watercraft in wetlands for scientific research; and
- (d) Occupation of the area after hours and at night, defined as the period between sunset and sunrise.

These requirements would assist in sound management of the public lands.

Rules 6(a) through 6(d) would restrict vehicle use and parking to prevent soil compaction and other damage to natural resources and to discourage overnight camping in violation of these proposed supplementary rules.

IV. Procedural Matters

Executive Orders 12866 and 13563, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866 or Executive Orders 13563. These proposed supplementary rules would not have an annual effect of \$100 million or more on the economy or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. They merely would impose limitations on certain recreational activities on certain public lands in Florida in order to protect natural resources and human health and safety.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following:

- (a) Are the requirements in the proposed supplementary rules clearly stated?
- (b) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?
- (c) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

(d) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(e) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the proposed supplementary rules to the address specified in the ADDRESSES section.

National Environmental Policy Act (NEPA)

These proposed supplementary rules would implement key decisions in the JILONA Comprehensive Management Plan. During the National Environmental Policy Act (NEPA) review for the Comprehensive Management Plan, the BLM fully analyzed the substance of these proposed supplementary rules in Environmental Assessment (EA) 2010-128-JFO. This analysis found that the management direction implementing the plan decisions will not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The BLM signed the Decision Record for the EA on September 15, 2010. The BLM holds the Comprehensive Management Plan, EA, and Decision Record on file and for public review in the BLM administrative record at the address specified in the **ADDRESSES** section. The document is also available online at <http://on.doi.gov/15m0x12>.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific lands. Therefore, the BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). These proposed supplementary rules generally set forth rules of conduct for recreational use of public lands. The proposed supplementary rules would not have an effect that rises to any of the following thresholds specified in 5 U.S.C. 804(2):

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on State, local, or tribal governments, in the aggregate, or the private sector of more than

\$100 million per year; nor would they have a significant or unique effect on small governments. The proposed supplementary rules do not require anything of State, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The proposed supplementary rules are not a government action capable of interfering with constitutionally protected property rights. The proposed supplementary rules would not address property rights in any form and would not cause the impairment of anybody's property rights. Therefore, the Department of the Interior has determined that these proposed supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed supplementary rules would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the BLM has determined that these proposed supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and that the requirements of Sections 3(a) and 3(b)(2) of the Executive Order are met. The proposed

supplementary rules include rules of conduct and prohibited acts that are straightforward and clearly written.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed rules do not include policies that have tribal implications, and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or on U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the proposed supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Public Law 106-554). In accordance with the Information Quality Act, the Department of the Interior has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at DOI's website at <http://www.doi.gov/archive/ocio/iq.html>.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed supplementary rules are not a “significant energy action,” as defined in Executive Order 13211. The rules are not likely to have an adverse effect on energy supply, distribution, or use and have no connection with energy policy.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Author

The principal author of these supplementary rules is Peter De Witt, Program Manager, Southeastern States Field Office.

Proposed Supplementary Rules for Public Lands in Palm Beach County, Florida

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1-6, the Eastern States Director proposes to establish the following supplementary rules. These rules apply to approximately 86 acres of public lands within the JILONA, Palm Beach County, Florida, Tallahassee Meridian T40S, R43E, Section 31, Lots 15, 17, and 19 – to read as follows:

Definitions

Parking area means a specially designed and publicly designated area set aside for the standing or temporary stationing of vehicles.

Permit means a document provided by the BLM authorized officer or his designee granting permission to conduct or take part in a specific activity at a specific location and at a specific time.

Vehicle means any wheeled conveyance for transportation of persons or materials whether:

1. Powered or drawn by motor, such as an automobile, truck, motorcycle, scooter, or minibike;
2. Animal-drawn, such as a carriage, wagon, or cart; or
3. Self-propelled, such as a bicycle, skates, or skateboard.

Watercraft means any boat, kayak, canoe, raft, houseboat, barge, vessel, ship, or any other floating device capable of transporting humans or objects over water.

Prohibited Acts

1. Plant and Wildlife Protection and Preservation

- (a) No person shall molest, harm, frighten, kill, trap, hunt, chase, shoot, throw objects at, harass, feed, or otherwise inhibit the natural movements and habits of any invertebrate, mammal, amphibian, reptile, fish, or bird.
- (b) No person shall remove or have in his or her possession the young of any wild animal, or the eggs or nests of any amphibian, reptile, fish, bird, or invertebrate.
- (c) No person shall introduce, plant, or release any plant or animal into any area.
- (d) No person shall dig, move, or remove from any area any sand, soil, rocks, stones, trees, shrubs, or plants, fallen timber, or other wood or materials, or make any excavation by tool, equipment, blasting, or other means.

2. Fires

(a) No person shall build or attempt to build, light, or cause to be lighted any fire or fires unless given permission under a written permit from the BLM authorized officer or his designee.

(b) No person shall drop, throw, or otherwise deposit lighted matches, burning cigarettes or cigars, tobacco paper, or other flammable materials within any area or on any county highway, road, or street abutting or contiguous thereto.

3. Boating

(a) No person shall launch or operate any watercraft upon any watercourse, lagoon, lake, canal, pond, marsh, wet prairie, or slough, except at such places that are designated by the BLM for such use or as authorized by the BLM.

(b) No person shall operate, moor, or anchor any watercraft in a manner that results in damage or harm to the vegetation, wildlife, or shoreline.

4. Prohibited Activities

(a) No person shall engage in fishing or the buying or selling of fish.

(b) No person shall engage in hunting or trapping, or be in the possession of any kind of trapping device. State licensed hunters and trappers requested by the BLM authorized officer or his designee to remove nuisance and exotic animals are exempt from this prohibition, as are State licensed hunters authorized to reduce excessive populations of animals causing environmental damage.

(c) No person shall use firearms or other weapons potentially harmful to wildlife and dangerous to human safety, except authorized law enforcement personnel and persons authorized by the BLM to remove nuisance and exotic animals. This prohibition includes shooting into the area from beyond its boundaries.

(d) No person shall engage in the sale, purchase, consumption, or possession of alcoholic beverages as defined in section 561.01(4), Florida Statutes.

(e) No person shall use, discharge or be in possession of fireworks, explosives, or substances that could be combined into an explosive mixture.

(f) No person shall bring domesticated animals (except horses) or pets into the area.

(g) No person shall conduct vehicle repair within the area, including its parking facilities.

(h) No person shall use an airboat.

(i) No person shall be in possession of or release inflated balloons.

5. Activities Requiring Prior BLM Authorization

(a) No person shall camp within the area without prior BLM authorization.

(b) No person shall engage in equestrian activities without prior BLM authorization.

(c) No person shall collect plant and animal specimens or use watercraft in wetlands for scientific research without prior BLM authorization.

(d) No person shall occupy the area after hours or at night, defined as the period between sunset and sunrise, without prior BLM authorization.

6. Vehicles

(a) No person shall drive, operate, or propel any vehicle outside the boundaries of designated paved or improved access roads or driveways unless specifically authorized to do so by the BLM.

(b) No person shall park any vehicle at any place other than a designated parking area without prior BLM authorization.

(c) No person shall park any vehicle in a manner that blocks or impedes access to a parking area or access road.

(d) No vehicle shall be left in a parking area overnight without prior authorization from the BLM.

Exemptions

The following persons are exempt from these supplementary rules: Any Federal, State, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities, or companies holding an existing special-use permit and operating within the scope of their permit.

Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0-7), any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than

\$1,000 or imprisoned for no more than 12 months or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

John F. Ruhs

State Director, Eastern States Office

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